

03-CV-03243-ORD

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK DEMOS,

Petitioner,

v.

MICHAEL CHERTOFF, *et al.*,

Respondents.

CASE NO. C03-3243-RSL-MJB

ORDER OF TRANSFER TO THE  
UNITED STATES COURT OF  
APPEALS FOR THE NINTH  
CIRCUIT AS A PETITION FOR  
REVIEW

The Court, having reviewed petitioner's 28 U.S.C. § 2241 petition (Dkt. #1), all papers and exhibits in support and in opposition to that petition, the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) This Court is without jurisdiction to consider petitioner's challenge to his exclusion order. Accordingly, this action is hereby TRANSFERRED to the United States Court of Appeals for the Ninth Circuit as a Petition For Review pursuant to Section 106(c) of the REAL ID Act of 2005, Pub. L. No. 109-13,

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119 Stat. 231.

(3) Respondents are temporarily enjoined from removing petitioner from the United States pending further order of the United States Court of Appeals for the Ninth Circuit. (Dkt. #5).

(4) The Clerk is directed to TERMINATE this case and TRANSFER all pleadings and related documents to the Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the Court's electronic file. The Clerk is further directed to send copies of this Order to all counsel of record, and to Judge Benton.

DATED this 6<sup>th</sup> day of Sept., 2005.



ROBERT S. LASNIK  
United States District Judge